



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,366	04/09/2004	Dale A. Panasewicz	ABCT 2 00003	1209
27885	7590	02/09/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			GUTMAN, HILARY L	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,366	<b>Applicant(s)</b> PANASEWICZ ET AL.	
	<b>Examiner</b> Hilary Gutman	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 5,8,14,15,19,21 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,9,11-13,16-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/7/05</u>   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 5, 8, 14-15, 19, and 21-22 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/28/05.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

3. Claim 18 is objected to because of the following informalities: on line 10, "releasable connected" should be "releasably connected". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3612

5. Claims 1-4, 6-7, and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is an inconsistency between the language in the preamble which sets forth (“an adjustable storage unit for a vehicle comprising:”) that the claim is directed to a subcombination and line 2 reciting a combination in that the frame system is “fastened” to a wall of the vehicle, thereby making the scope of the claim indefinite and unclear. Applicant is required to clarify what subject matter the claim is intended to be drawn to, i.e., combination or subcombination, and to amend the language of the claim to be consistent with this intent (such as modifying “fastened” to “fastenable” or “capable of being fastened”). For the purport of treating the claims based upon prior art, the claims have been treated as subcombination claims.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3612

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-3, 7, 9, 11-13, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heneveld, Sr. in view of Olerio.

Heneveld, Sr. (5,762,213) discloses the claimed invention except for a shelf and end panels formed from a polymer material.

Olerio (5,988,476) teaches a polymer formed rack system including a polymer shelf of polypropylene.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the shelf and end panels of Heneveld, Sr. out of a polymer material as taught by Olerio in order to allow the end panels and shelf to be strong and lightweight.

It should be noted for claim 18 that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heneveld, Sr. in view of Olerio and Clegg.

Heneveld, Sr. (5,762,213) discloses the claimed invention except for a shelf formed from a polymer material.

Olerio (5,988,476) teaches a polymer formed rack system including a polymer shelf of polypropylene.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the shelf and end panels of Heneveld, Sr. out of a polymer material as taught by Olerio in order to allow the shelf to be strong and lightweight.

Heneveld, Sr., as modified, lacks the end panels being formed from a composite material.

Clegg (6,520,514) teaches a rack system including a housing with end panels and shelves. The housing and shelving can be formed from durable plastic materials or metal. The plastic materials are selected from the group of nylons, polyethylene, polypropylenes, polyurethanes, and combinations thereof. Therefore the housing and shelves can be formed of a composite material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the end panels of Heneveld, Sr., as modified, out of a composite material as taught by Clegg in order to allow the end panels to be durable.

10. Claims 11 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heneveld, Sr. in view of Clegg.

Heneveld, Sr. (5,762,213) discloses the claimed invention except for a shelf and end panels formed from a composite material.

Clegg (6,520,514) teaches a rack system including a housing with end panels and shelves. The housing and shelving can be formed from durable plastic materials or metal. The plastic materials are selected from the group of nylons, polyethylene, polypropylenes, polyurethanes, and combinations thereof. Therefore the housing and shelves can be formed of a composite material.

Art Unit: 3612

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the shelf and end panels of Heneveld, Sr. out of a composite material as taught by Clegg in order to allow the end panels and shelf to be durable.

11. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heneveld, Sr. in view of Clegg and Lara.

Heneveld, Sr. (5,762,213) discloses the claimed invention except for a shelf and end panels formed from a polymer material.

Olerio (5,988,476) teaches a polymer formed rack system including a polymer shelf of polypropylene.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the shelf and end panels of Heneveld, Sr. out of a polymer material as taught by Olerio in order to allow the end panels and shelf to be strong and lightweight.

Heneveld, Sr., as modified, lacks a bowed front edge that extends beyond the vertical plane of the front edge of the end panels.

Lara (D426,728) teaches a design of a rack wherein the shelves are bowed outward such that a bowed front edge of each of the shelves extends beyond the vertical plane of a front edge of each of the end panels (see Figures 2-4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the front edges of the shelves of Heneveld, Sr., as modified, to be bowed outward as taught by Lara in order to improve the design features and aesthetics of the storage unit.

***Allowable Subject Matter***

12. The indicated allowability of claims 4, 6-7, 12, and 16-22 is withdrawn in view of the new rejection set forth above.

13. Claims 23 is allowed.

14. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

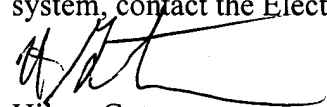
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hilary Gutman  
January 31, 2006